IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

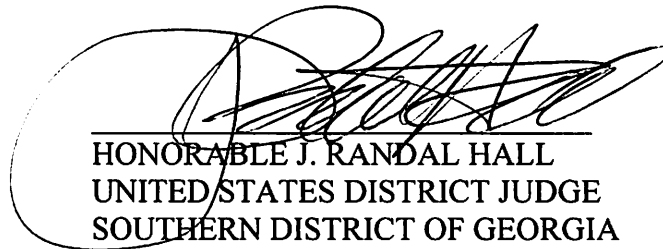|		
PATRICK DAYON BELVIN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CV 113-218
	)	
BURKE COUNTY SHERIFF	)	
DEPARTMENT and	)	
DISTRICT ATTORNEY OFFICE	)	
OF BURKE COUNTY,	)	
	)	
Defendants.	)	

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which no objections have been filed. In lieu of objections, Plaintiff filed a motion to dismiss, seeking dismissal of the above-captioned case without prejudice. (Doc. no. 10.)

When Plaintiff first filed his lawsuit he was cautioned that, pursuant to the Prison Litigation Reform Act, "a prisoner cannot bring a new civil action . . . *in forma pauperis* if the prisoner has on three or more prior occasions, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was frivolous, malicious, or failed to state a claim upon which relief may be granted." (Doc. no. 3, p. 2). Because of these requirements, Plaintiff was given an opportunity at that time to voluntarily dismiss his complaint pursuant to Fed. R. Civ. P. 41(a)(1) and not be subjected to a "strike" under 28 U.S.C. § 1915(g). (Id. at 3.)

Plaintiff chose to proceed with his case. The Magistrate Judge reviewed Plaintiff's complaint in conformity with the *in forma pauperis* statute and recommended that Plaintiff's complaint be dismissed for failure to state a claim upon which relief can be granted. (Doc. no. 8.) Plaintiff cannot now avoid a strike by voluntarily dismissing his case. As a result, Plaintiff's motion to voluntarily dismiss his case is **DENIED**. (Doc. no. 10.)

Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **DISMISSES** Plaintiff's complaint for failure to state a claim upon which relief can be granted, and **CLOSES** this civil action.

SO ORDERED this 21 day of April, 2014, at Augusta, Georgia.

HONORABLE J. RANDAL HALL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA